



**Planning Staff Report to
Greenville Planning Commission
March 11, 2022
for the March 17, 2022 Public Hearing**

Docket Number:	V 22-125
Proposal:	Variance from Section 19-7, Stormwater Management
Applicant:	The Gateway Companies/Josh Mandell
Property Owner:	Mbvm-2 LLC
Property Location:	Webb Road
Tax Map Number:	026000-01-01216, 026000-01-01215, 026000-01-01100, 026000-01-01102
Acreage:	8.3 acres
Zoning:	RM-2, Single- & Multi-Family Residential District
Staff Recommendation:	Approve with Conditions

Applicable Section(s) of City Code:

- *Section 19-2.2.8(C), Public hearings*
- *Article 19-7, Stormwater Management*
- *Section 19-7.7.4, Buffer areas*
- *Section 19-7.9, Variances, waivers, and appeals*

Procedural Requirements:

Pre-Application and Development Meetings

A pre-application meeting was held on February 2, 2022, between the applicant and Engineering staff about the property and its need for a variance from buffer areas in order to develop for a low-income multi-family development. Discussions centered around the boundary of the existing jurisdictional waters, how the shape and size affect the proposed project and how the Buffer Areas portion of the ordinance is defined.

Neighborhood Meeting

The applicant presented their project at a neighborhood meeting on February 7, 2022, via a virtual meeting for this request and the pending multi-family request. Discussions primarily focused on pedestrian safety, traffic, sewer capacity, amenity areas, and concerns over low-income housing in the area.

Planning Commission Authority to Grant Stormwater Variances

Per Section 19-7.9.1(B), the Planning Commission has the authority to grant variances after conducting a public hearing and upon finding that the request meets the applicable standards of the Land Management Ordinance.

The Planning Commission may, subject to the process and standards in Section 19-7.9.1, grant variances to the provisions of Article 19-7, Stormwater Management, provided such variances will not cause detriment to the public good, safety, or welfare, nor be contrary to the spirit, purpose, and intent of the Land Management Ordinance. Variances may be granted in situations where unique and exceptional physical circumstances or conditions of a

particular property would result in an unreasonable hardship, if the literal requirements of the stormwater provisions were enforced. Additional specific standards for variances are listed in Section 19-7.9.1(C).

Applicant Request

The applicant seeks a variance from the minimum width of the required buffer in select areas in order to access portions of the property. Specifically, Section 19-7 7.4 (H)(j) of the stormwater ordinance states:

Buffer averaging. The buffer width for a development site may be varied to a minimum of one-half of the buffer width required, upon approval of the administrator or designee, provided that the total buffer area required is achieved adjacent to the waters of the United States or waters of the state being buffered.

The applicant needs a variance to allow select areas of the buffer to be less than one-half of the buffer requirement.

The configuration of the wetlands restricts access to the rear of the site without encroachment into the buffers.

Variance Requirements

Staff offers the following responses to the standards of Section 19-7.9.1(C):

- (1) Showing of good and sufficient cause; and

Staff response: The applicant's stated reason for the stormwater variance request is primarily related to the buffer areas and the need to provide access to the rear of the site.

- (2) A determination that the variance is the minimum necessary to afford relief; and

Staff response: The applicant is only asking for encroachment into the required minimum buffer width.

- (3) A finding that failure to grant the variance would result in exceptional hardship to the applicant; and

Staff response: If the variance is not granted, then much of the property will not be accessible.

- (4) A finding that the granting of a variance would not result in increased flood heights, additional threats to public safety, or any public expense, nor create nuisances, cause fraud or victimization of the public, nor conflict with existing local laws or ordinances and that all buildings will be protected by methods that minimize flood damage during the base flood elevation; and

Staff response: This parcel is not located within a floodway, nor would simply granting the variance cause any nuisance or public safety concerns.

- (5) A finding that the development activity cannot be located outside the regulatory floodplain; and

Staff response: The property is not located in a regulatory floodway. This criterion does not apply.

- (6) A determination that the activity is not in a regulatory floodway, or if the activity is located within a regulatory floodway, a determination that: (i) the property associated with the development activity contained either a primary structure used for commercial purposes which was damaged or destroyed as a result of a casualty, or a secondary structure integral to the business operated on the property which was damaged or destroyed as a result of a casualty; (ii) no portion of the property was located within a regulatory floodway at the time the owner acquired the property; (iii) no portion of the property was located within a regulatory floodway when the structure was originally constructed; (iv) the structure was in use as an active business being operated as a going concern at such time that any portion of the property was placed in the regulatory floodway by virtue of regulatory action; (v) said use was continuously in operation until such time as the structure was damaged or destroyed as a result of a casualty; (vi) it would be inequitable to deny the property owner of the opportunity to rebuild a structure of the same footprint or less such that the business activity occurring prior to the casualty may be resumed; and (vii) the development activity would not result

in any increase in flood levels during the base flood discharge. For development located within a regulatory floodway, no variance shall be granted where the variance was requested more than five years after the damage or destruction of the structure as a result of a casualty. Otherwise, no variances shall be granted to any development located in a regulatory floodway; and

Staff response: The property is not located in a regulatory floodway.

- (7) The applicant's circumstances are unique and do not represent a general problem; and

Staff response: The configuration of the buffer areas inhibit access to the rear of the site.

- (8) The granting of the variance will not alter the essential character of the area involved including existing stream uses.

Staff response: Wetland impacts are minimized with the proposed layout.

STAFF RECOMMENDATION:

APPROVE, with staff comments and conditions

Staff Comments and Conditions

Civil Engineer Comments

Recommend: N/A

Comments:

No comments.

Parks & Recreation Comments

Recommend: Approve

Comments:

Reviewed, no comment.

Traffic Engineer Comments

Recommend: N/A

Comments:

No comments.

Tree and Landscape Comments

Recommend: Approve w/ Comments

Comments:

A tree survey will be required at time of permit submission. Tree survey should include all trees on site that are greater than 6" DBH. Site plan should show all trees that will be removed due to construction. Mitigation will be required for any protected trees that are removed with either inch per inch replacement or fee-in-lieu. A landscape plan will be required showing the required street trees, parking lot trees, and replacement trees should that apply. Tree density of 1 per 2000 sf minus building footprints should be maintained for each individual lot.

Application # _____	Fees Paid _____
Date Received: _____	Accepted by _____
Date deemed complete _____	App Deny Conditions _____



**APPLICATION FOR VARIANCE
GREENVILLE CITY CODE
SEC 19-7, STORMWATER MANAGEMENT**

APPLICANT/OWNER INFORMATION

	APPLICANT	PROPERTY OWNER
NAME:	The Gateway Companies/Josh Mandell	Mbvm-2 LLC
ADDRESS:	22 Inverness Parkway, Ste. 222 Birmingham, AL 35242	113 Moorcroft Way Greer, SC 29650
PHONE:	205-980-3245	864-787-9137
FAX:		
EMAIL:	jmandell@gatewaymgt.com	sunnyinvestments72@gmail.com

PROPERTY INFORMATION

STREET ADDRESS: Webb Road

DEED BOOK/PAGE 2583-3763 RECORDED DATE 12/09/2019

TAX PARCEL #: 0260000101216, 0260000101215,
0260000101100 & 0260000101102 ACREAGE 8.3

PROPOSED USE: 72 Units LIHTC Multi-family Apartments

REQUEST

CODE SECTION FROM WHICH VARIANCE IS REQUESTED: 19-7.7.4 Buffer Areas

DESCRIPTION OF REQUEST: _____

The request is for a reduction of the buffer width and the elimination of the buffer zone in specific areas as shown on the attached plan sheet.

INSTRUCTIONS

1. THE APPLICATION AND FEE, **MADE PAYABLE TO THE CITY OF GREENVILLE**, MUST BE RECEIVED BY THE PLANNING AND DEVELOPMENT OFFICE NO LATER THAN 4:00 PM OF THE DATE REFLECTED ON THE ATTACHED SCHEDULE.

2. THE APPLICANT/OWNER MUST RESPOND TO THE QUESTIONS ON PAGE 3 OF THIS APPLICATION (YOU MUST ANSWER "WHY" YOU BELIEVE THE APPLICATION MEETS THE TESTS FOR THE GRANTING OF A VARIANCE). SEE ALSO **SECTION 19-7.9, VARIANCES, WAIVERS, AND APPEALS**, FOR ADDITIONAL INFORMATION. YOU MAY ATTACH A SEPARATE SHEET ADDRESSING THESE QUESTIONS.

3. YOU MUST ATTACH A SCALED DRAWING OF THE PROPERTY THAT REFLECTS, AT A MINIMUM, THE FOLLOWING: (a) PROPERTY LINES, EXISTING BUILDINGS, AND OTHER RELEVANT SITE IMPROVEMENTS; (b) THE NATURE (AND DIMENSIONS) OF THE REQUESTED VARIANCE; (c) EXISTING BUILDINGS AND OTHER RELEVANT SITE IMPROVEMENTS ON ADJACENT PROPERTIES; AND, (d) TOPOGRAPHIC, NATURAL FEATURES, ETC. RELEVANT TO THE REQUESTED VARIANCE.

4. YOU MUST ATTACH THE REQUIRED APPLICATION FEE: \$250.00

5. THE ADMINISTRATOR WILL REVIEW THE APPLICATION FOR "SUFFICIENCY" PURSUANT TO **SECTION 19-2.2.6, DETERMINATION OF SUFFICIENCY**, PRIOR TO PLACING THE APPLICATION ON THE PLANNING COMMISSION AND CITY COUNCIL AGENDAE. IF THE APPLICATION IS DETERMINED TO BE "INSUFFICIENT", THE ADMINISTRATOR WILL CONTACT THE APPLICANT TO REQUEST THAT THE APPLICANT RESOLVE THE DEFICIENCIES. **YOU ARE ENCOURAGED TO SCHEDULE AN APPLICATION CONFERENCE WITH A REPRESENTATIVE OF THE ENVIRONMENTAL ENGINEERING BUREAU WHO WILL REVIEW YOUR APPLICATION FOR "SUFFICIENCY" AT THE TIME IT IS SUBMITTED. CALL (864) 467-4400 TO SCHEDULE AN APPOINTMENT.**

6. YOU MUST POST THE SUBJECT PROPERTY AT LEAST 15 DAYS PRIOR TO THE SCHEDULED PLANNING COMMISSION HEARING DATE AND AT LEAST 30 DAYS PRIOR TO THE CITY COUNCIL HEARING DATE.

____ SIGN(S) ARE ACKNOWLEDGED AS RECEIVED BY THE APPLICANT

APPLICANT'S SIGNATURE

7. THE APPLICANT AND PROPERTY OWNER AFFIRM THAT ALL INFORMATION SUBMITTED WITH THIS APPLICATION, INCLUDING ANY/ALL SUPPLEMENTAL INFORMATION, IS TRUE AND CORRECT TO THE BEST OF THEIR KNOWLEDGE AND THEY HAVE PROVIDED FULL DISCLOSURE OF THE RELEVANT FACTS.

IN ADDITION, THE APPLICANT AND PROPERTY OWNER AFFIRM THAT THE TRACT OR PARCEL OF LAND SUBJECT OF THIS APPLICATION IS, OR IS NOT, RESTRICTED BY ANY RECORDED COVENANT THAT IS CONTRARY TO, CONFLICTS WITH, OR PROHIBITS, THE REQUESTED ACTIVITY.

IF THE PLANNING OFFICE HAS ACTUAL NOTICE* THAT A RESTRICTIVE COVENANT* IS CONTRARY TO, CONFLICTS WITH, OR PROHIBITS THE REQUESTED ACTIVITY, THE OFFICE MUST NOT ISSUE THE PERMIT UNLESS THE OFFICE RECEIVES CONFIRMATION FROM THE APPLICANT THAT THE RESTRICTIVE COVENANT HAS BEEN RELEASED BY ACTION OF THE APPROPRIATE AUTHORITY, PROPERTY HOLDERS, OR BY COURT ORDER.

TO THAT END, THE APPLICANT HEREBY AFFIRMS THAT THE TRACT OR PARCEL OF LAND SUBJECT OF THE ATTACHED APPLICATION IS _____ OR IS NOT X RESTRICTED BY ANY RECORDED COVENANT THAT IS CONTRARY TO, CONFLICTS WITH, OR PROHIBITS THE REQUESTED ACTIVITY.

_____ <i>Josh Markov</i>	APPLICANT
_____ February 14, 2022	DATE
_____ <i>[Signature]</i>	PROPERTY OWNER
_____ 02/10/2022	DATE

APPLICANT RESPONSE TO SECTION 19-7.9.1

(YOU MAY ATTACH A SEPARATE SHEET)

1. DESCRIBE THE UNIQUE AND EXCEPTIONAL CIRCUMSTANCES, OR SPECIFIC CONDITIONS OF THE PROPERTY, WHEREBY THE LITERAL ENFORCEMENT OF THE PROVISIONS OF THE STORMWATER ORDINANCE WOULD CREATE AN UNREASONABLE HARDSHIP.

See attached sheet.

2. EXPLAIN HOW THIS REQUEST IS THE MINIMUM ACTION NECESSARY TO AFFORD RELIEF FROM THE ORDINANCE.

See attached sheet.

3. DESCRIBE THE WAYS IN WHICH FAILURE TO GRANT THE VARIANCE WOULD RESULT IN EXCEPTIONAL HARDSHIP TO THE APPLICANT.

See attached sheet.

4. IF APPLICABLE, PROVIDE DOCUMENTATION IN SUPPORT OF THE FACT THAT GRANTING THE VARIANCE WILL NOT RESULT IN INCREASED FLOOD HEIGHTS, THREATS TO PUBLIC SAFETY, OR ANY PUBLIC EXPENSE. IN ADDITION, DESCRIBE THE WAYS IN WHICH GRANTING THE VARIANCE WILL NOT CREATE A NUISANCE, CAUSE FRAUD OR VICTIMIZATION OF THE PUBLIC, NOR CONFLICT WITH THE GREENVILLE CITY CODE.

See attached sheet.

5. IF APPLICABLE, EXPLAIN WHY THE PROPOSED DEVELOPMENT CANNOT BE LOCATED OUTSIDE THE REGULATORY FLOODPLAIN?

See attached sheet.

6. EXPLAIN HOW GRANTING THE VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE AREA INVOLVED, INCLUDING EXISTING STREAM USES.

See attached sheet.

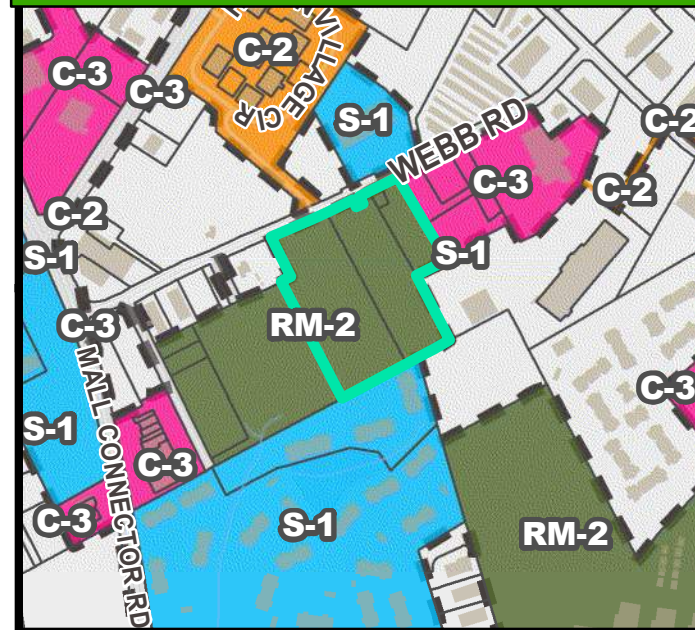
1. Our site consists of 8.3 acres of which 3.05 acres have been delineated as wetlands. Per City of Greenville Ordinance Section 19-7.7.4.A.2.c this requires a 50' wetland buffer. The buffer area measures 2.47 acres. When you add together the wetlands and the City of Greenville required buffer, the total area of wetlands and buffer equate to 5.52 acres, which is 66.5% of our entire site. The way the wetlands are positioned on our site, the wetlands run from the west boundary to the east boundary, essentially cutting off the rear of the property from the public roadway access. As the staff interprets the intent of the ordinance, no encroachment into half of the buffer is allowed for any reason. In order to access the rear of the site, the wetlands would either need to be filled in or spanned via an arched culvert or bridge in excess of 190-linear feet. In addition, because of how the wetlands are configured in a linear shape, the buffer required calculates to an area that is 81% of the wetlands area in itself.
2. Simply because of the configuration of the wetlands we cannot access the rear of the site without encroachment into the buffers. In addition, as shown on the provided site plan exhibits, the required roadways, both for access and for fire protection require we encroach into the buffers for placement of the roads and the most rear building. As the wetlands branch off in the rear of the site, this causes a unique layout of the buffer, which if not encroached on would not allow for the placement of the building, access roadway, parking, or fire apparatus set up should a fire need to be fought.
3. If this variance is not granted, the entire rear of the property would be inaccessible and undevelopable. Without variances being granted, this ordinance could have an unintended, disproportionately adverse effect on affordable/LIHTC new construction projects. As you know, inherent existing constraints, such as required set-backs, jurisdictional wetlands and routine easements usually reduce the total buildable area of a given site. Sites that competitively score and qualify to receive LIHTC awards tend to be on smaller tracts, in well-located, infill-type areas. As LIHTC projects generally have more limited construction budgets and maximum permitted unit counts, these projects generally must be low-rise garden style construction, as opposed to more dense, mid-rise style. Consequently, a large number of LIHTC sites that must sacrifice additional acreage to satisfy the Ordinance, will likely make it untenable to develop for LIHTC housing.
4. This site is not adjacent to an existing stream or flood plain. The issue is the wetland buffer. The State of South Carolina DHEC's NPDES General Construction permit allows for the reduction and the elimination of buffers for wetlands and streams NPDES General Permit 3.2.4.C.II.(b) and 3.2.4.C.II.(c). We would follow the guidelines set forth in the General Permit.
5. No flood plain present.
6. As mentioned above, over 66.5% of our site is either covered in wetlands or buffers. If granted, we would see a very minimal reduction in the size of the buffer. This would result in a loss of only 0.33 acres of buffer, mostly associated with the required roadways to both access the rear of the site and to provide adequate fire access. This correlates to a 13% reduction in the buffer; however, because we are not going to be impacting of filling any of the wetlands, the site will go from a total wetland and buffer coverage of 66.5% to 62.4%; which in our opinion, based on the use we are proposing would still be beneficial to the public.

V-22-125 • WEBB ROAD

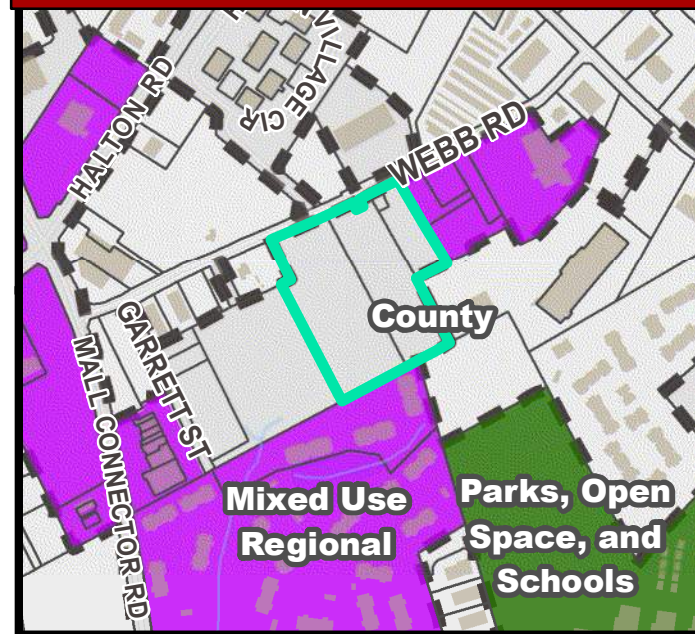
AERIAL VIEW



CURRENT ZONING

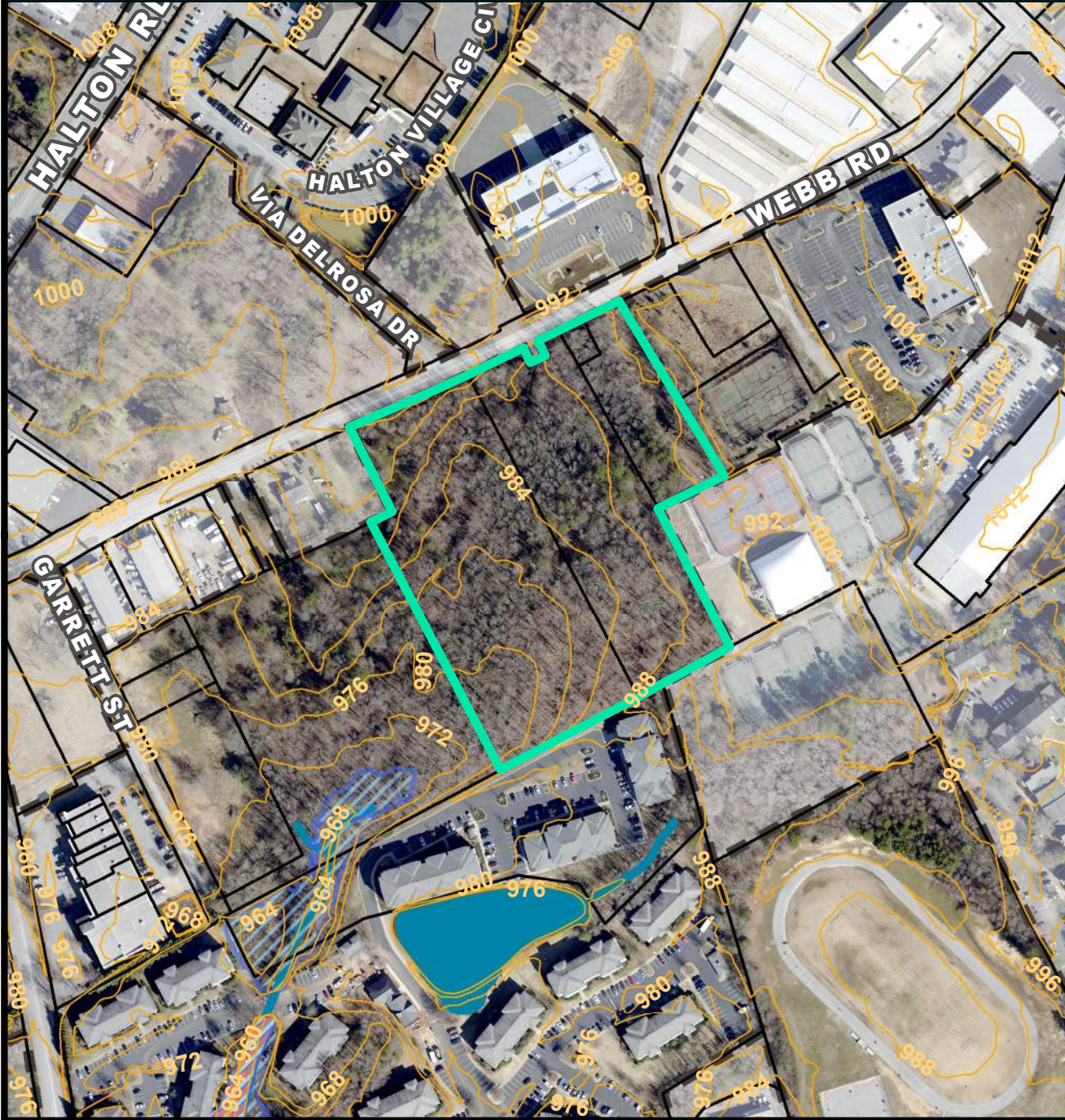


FUTURE LAND USE

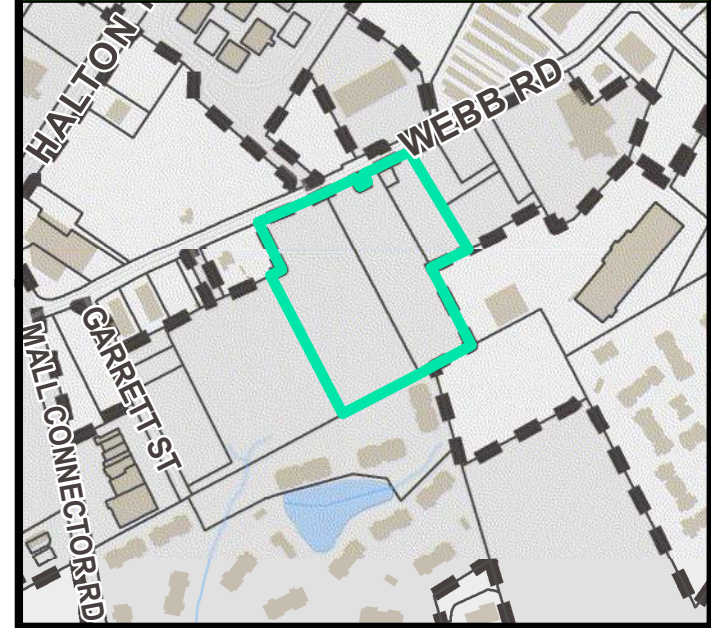


V-22-125 • WEBB ROAD

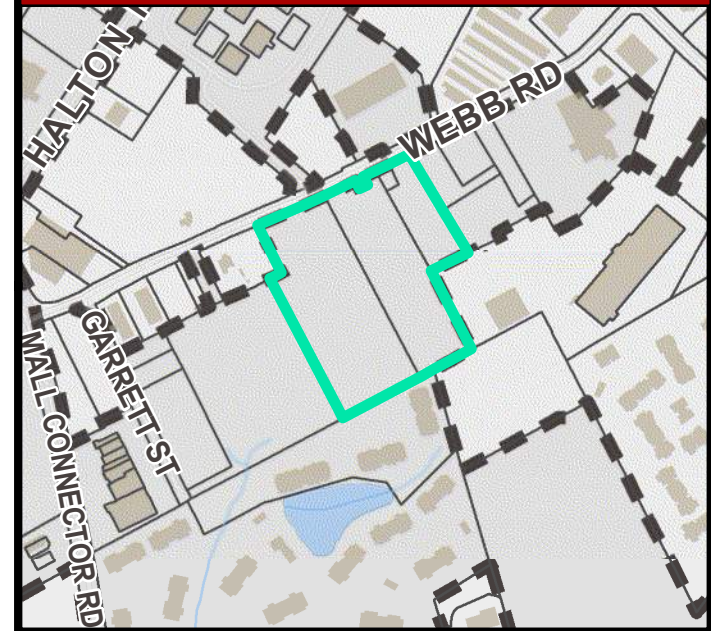
NATURAL / ENVIRONMENTAL FEATURES

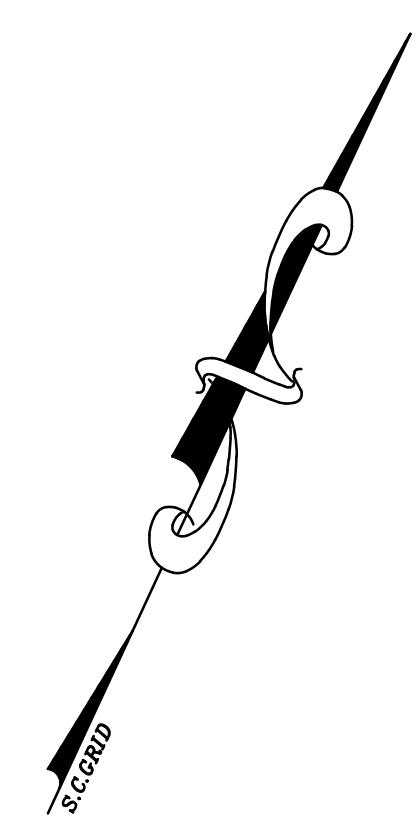
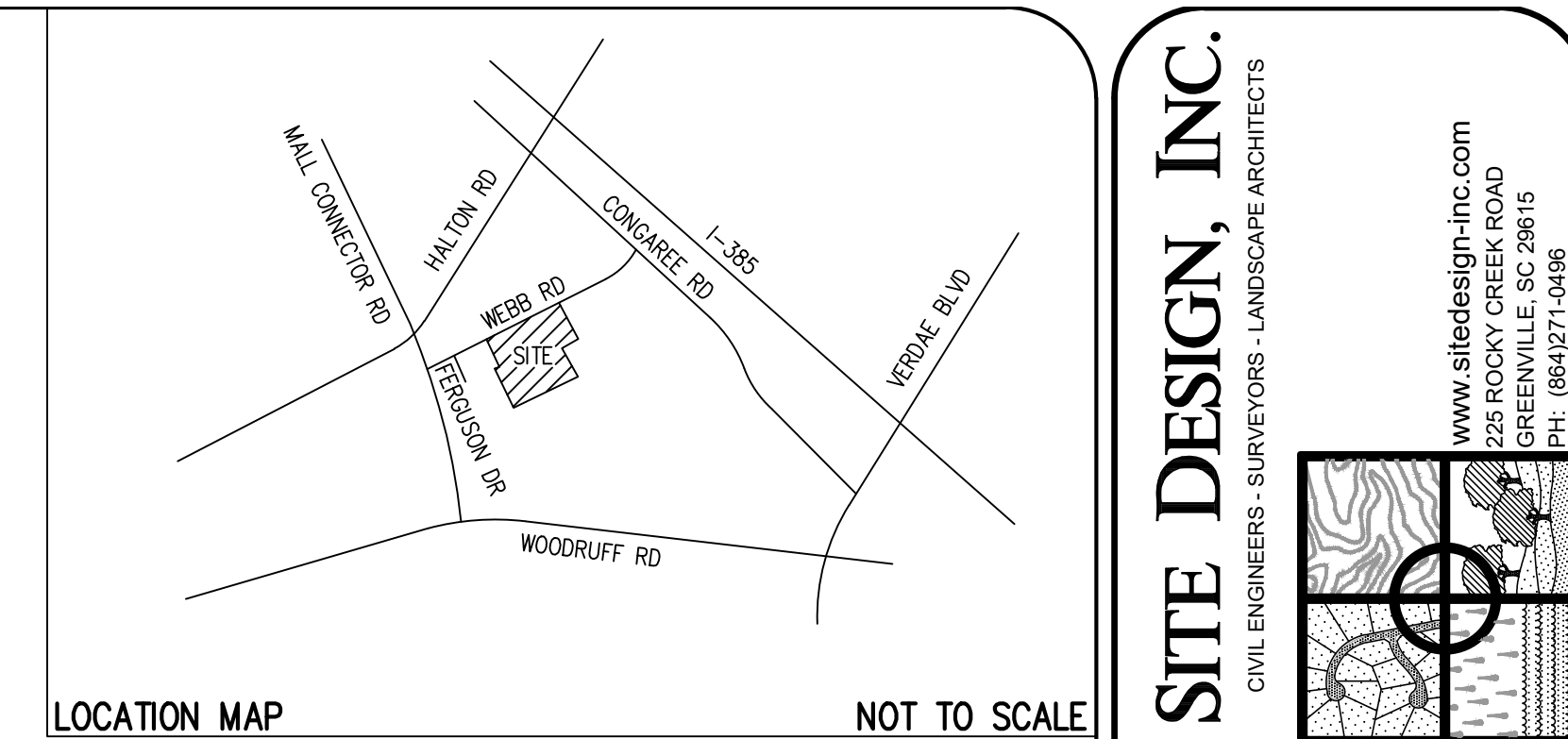


SPECIAL EMPHASIS NEIGHBORHOODS

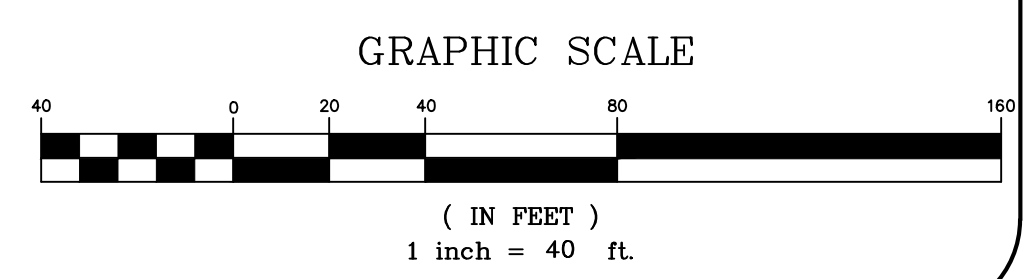


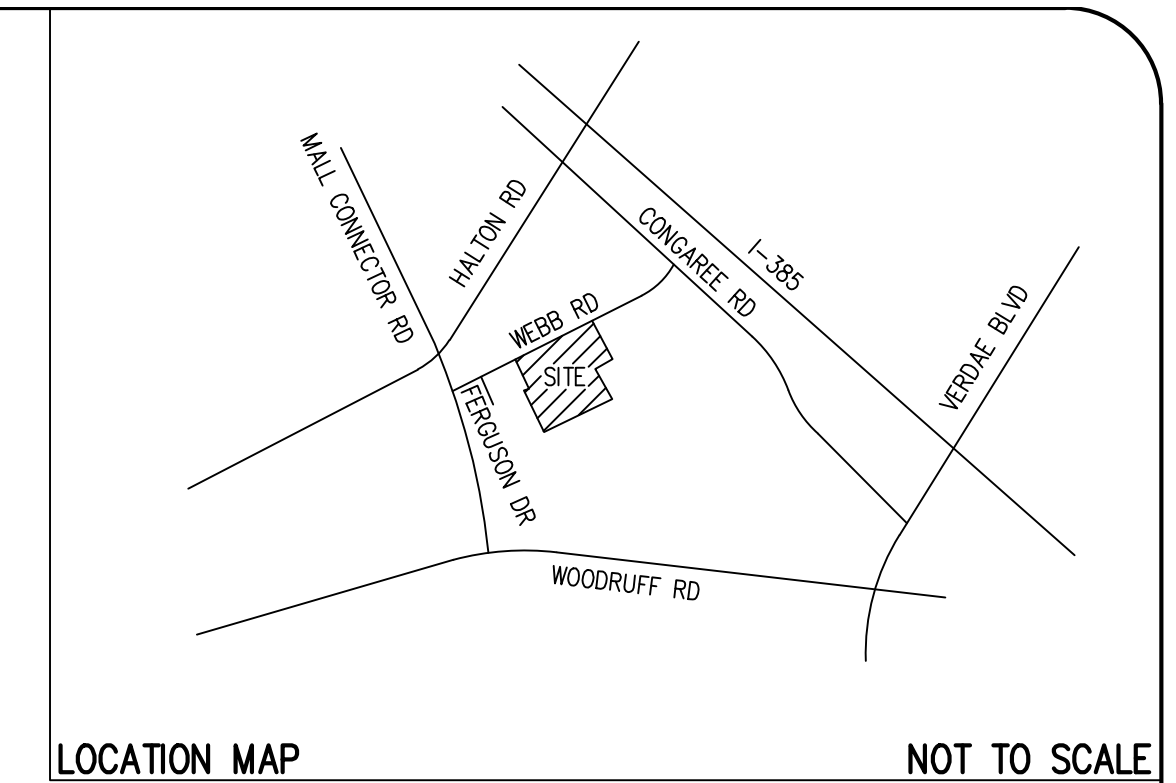
PRESERVATION OVERLAYS





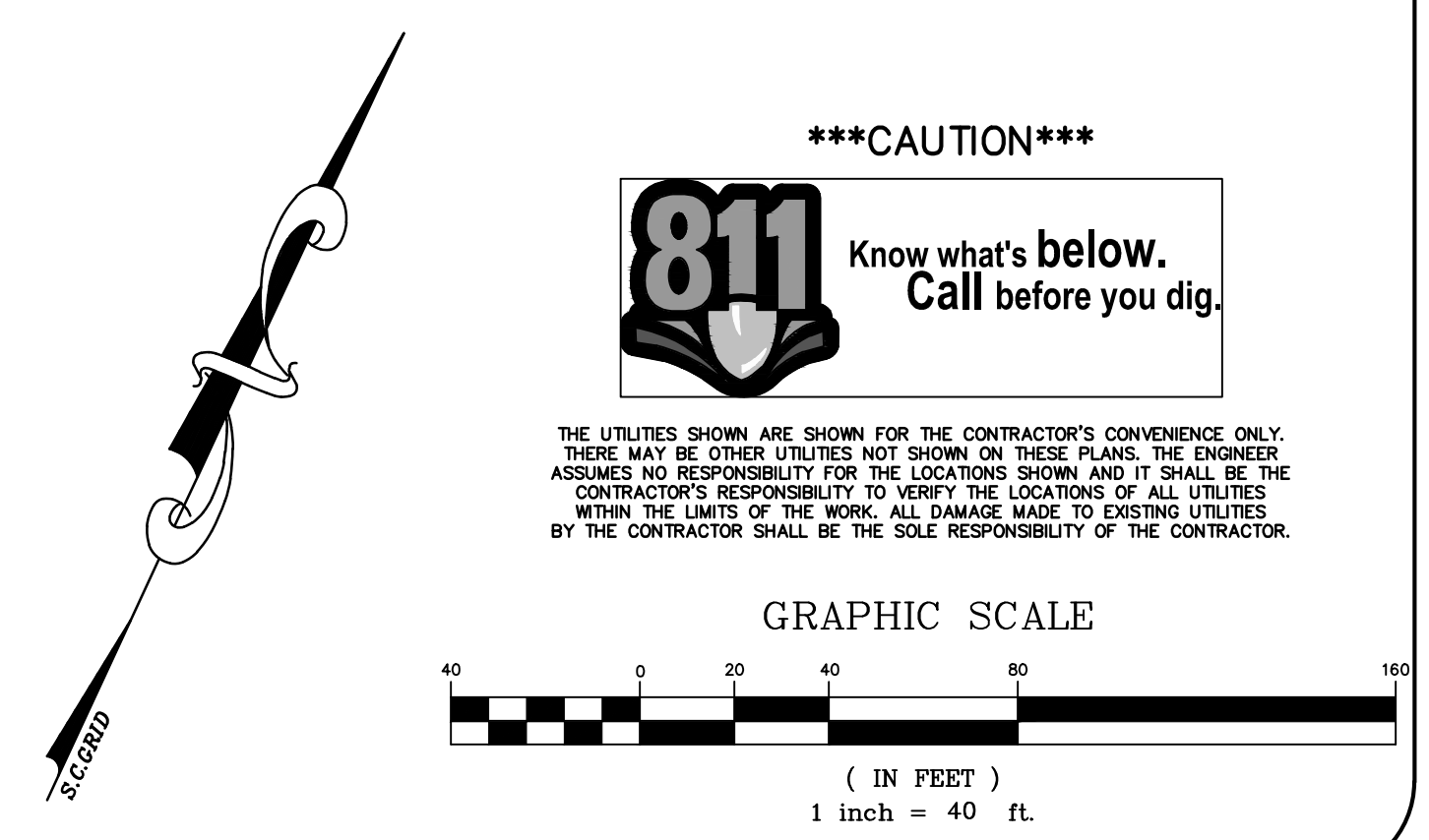
THE UTILITIES SHOWN ARE SHOWN FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATIONS OF ALL UTILITIES WITHIN THE LIMITS OF THE WORK. ALL DAMAGE MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.














BUFFER ENCROACHMENT DATA:

TOTAL AREA OF BUFFER ENCROACHMENT TO BE ELIMINATED = 0.33 AC (14,377 SF)
AREA OF VARIED BUFFER REMAINING = 2.14 AC (93,089 SF) 13% REDUCTION
% OF SITE IN TOTAL COVERED BY WETLAND AND VARIED BUFFER = 62.4%



<h1 style="margin: 0;">SITE DESIGN, INC.</h1> <p style="margin: 0;">CIVIL ENGINEERS - SURVEYORS - LANDSCAPE ARCHITECTS</p>									
<p style="margin: 0;">www.sitedesign-inc.com 225 ROCKY CREEK ROAD GREENVILLE, SC 29615 PH: (864)271-0496</p>									
									
									
									
									
									
									
									
									
									

Neighborhood Meeting Summary - Webb Road Design Review Board Application

February 7, 2022 – 6:00 PM via Zoom

Meeting Attendees

Meeting Hosts:

1. Josh Mandell – The Gateway Companies
2. Thompson Gooding – Park Terrace Company
3. Travis Ismir – Park Terrace Company
4. Jason Freeman – The Gateway Companies

Attendees:

1. Mr. and Mrs. Warren Smith – Site Neighbor
2. Mr. Bootie Cothran – Site Neighbor
3. John Wooten – Site Neighbor
4. Andrew Bolen – Site Neighbor
5. Building Engineer (Name not verified) – City of Greenville
6. Ben Abdo – City of Greenville
7. Craig Winnall – Site Design Engineering

Meeting Summary:

Mr. Mandell opened the meeting with a brief presentation of the Site location, the Applicant's development background and track record, and the Applicant's plans for development of the Site. Included in the presentation were drafts of the development site plan and building elevations.

Mr. Bolen inquired about whether there would be a sidewalk in front of the property, and whether there would be adequate parking. Mr. Winnall confirmed both answers affirmatively. Mr. Bolen also asked about future plans for widening Webb Road and asked if Gateway would consider developing senior housing in the area.

Mr. Cothran asked about sewer capacity for the project and Mr. Winnall answered there would be adequate capacity.

Mr. Wooten inquired whether the Site's would have a swimming pool, and whether the Site would need to cross other private property for sewer access. Mr. Mandell explained "no" for both questions.

Mr. Smith inquired about whether a traffic study was needed and Mr. Winnall explained that one was not warranted per governing rules regarding traffic counts.

Mr. and Mrs. Smith also questioned whether the Site needed to accommodate low income residents and voiced concerns that this type of resident would attract crime, as opposed to higher end clientele.

The meeting adjourned around 6:50 PM.